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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/595,191

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Tadashi Nakamura

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SUITE 1400

COSTA MESA, CA 92626

EXAMINER

LEE, NICHOLAS J

ART UNIT

PAPER NUMBER

2627

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/595,191	<b>Applicant(s)</b> NAKAMURA, TADASHI	
	<b>Examiner</b> NICHOLAS LEE	<b>Art Unit</b> 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7 and 8 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Pub. 2004/0114474 A1 to Park et al ("Park 1") in view of US Patent Pub. 2004/0223440 A1 to Park ("Park 2").

As to claim 1, Park 1 discloses a drive apparatus for performing a pseudo-overwrite recording for a write-once recording medium (Fig. 2), wherein

the write-once recording medium includes a spare area (OSA, ISA) and a user data area (User Data Area),

at least one track are allocated in the user data area,

the drive apparatus (Fig. 16) comprising:

a recording/reproduction section (11, pickup) for performing a recording operation or a reproduction operation for the write-once recording medium; and

a drive control section (14, Servo) for controlling the recording/reproduction section,

wherein the drive control section performs a process including:

receiving a recording instruction including a location at which data is to be recorded wherein the location at which data is to be recorded is a location at which previous data is recorded (Fig. 6; ¶ 0039-0040, 0048);

determining a track among at least one tracks corresponding to the location included in the recording instruction;

controlling the recording/reproduction section to record data at a replacement location in the user data area instead of the location included in the recording instruction (¶ 0060).

Park fails to disclose a drive apparatus wherein the drive control section performs a process including: determining whether or not the recording of the data at the replacement location in the user data area has succeeded; and when the recording of the data at the replacement location in the user data area has failed, controlling the recording/reproduction section to record the data at a location in the spare area.

Park 2 discloses a drive apparatus wherein the drive control section performs a process including: determining whether or not the recording of the data at the replacement location in the user data area has succeeded (¶ 0043, It would be obvious that if a defective area is found that it would be determined that a recording operation would be determined to have failed); and when the recording of the data at the replacement location in the user data area has failed, controlling the recording/reproduction section to record the data at a location in the spare area (¶ 0043).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to have modified Park 1 with the teachings of Park 2 with the motivation of an improved optical disk storage system for a write-once optical disk by using an unrecorded area of a user data area.

As to claim 2, Park 2 further discloses that if a defective area is found in the data area or a spare area, a process is carried out for transferring the data from the defective area to a spare area (§ 0043).

As to claim 7, the same rejection or discussion is used as in the rejection of claim 1.

As to claim 8, the same rejection or discussion is used as in the rejection of claim 7.

3. Claims 3-4 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Pub. 2004/0114474 A1 to Park et al ("Park 1") in view of US Patent Pub. 2004/0223440 A1 to Park ("Park 2"), and further in view of US Patent No. 5,825,726 to Hwang et al ("Hwang").

See the discussion of Park 1 and Park 2 above..

As to claim 3, the same rejection or discussion is used as in the rejection of claim 1. Park as modified fails to disclose a drive apparatus wherein a determined track is an open track.

Hwang discloses a method of recording data on a write-once information medium (abstract, CD) wherein it is determined whether or not the last recorded session is a finalized session prior to performing a recording operation. If a

Art Unit: 2627

session is not finalized the corresponding sessions is regarded as being open, and the track to be recorded next is recorded after the current track (col. 8, lines 18-38).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to have modified Park 1 as modified with the teachings of Hwang such that the two arts are directed towards methods of recording data in allocated data areas on a write-once information medium.

As to claim 4, the same rejections or discussions are used as in the rejections of claims 1 and 3. It would be obvious that if a section determined to not be an open track it would other wise be closed wherein the track has either been recorded in previously and closed or an unrecorded track.

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-4 and 7-8 have been considered but are moot in view of the new ground(s) of rejection. See the rejections above.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NICHOLAS LEE whose telephone number is (571)270-7354. The examiner can normally be reached on Monday-Friday 7:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/NICHOLAS LEE/ /Joseph H. Feild/  
Examiner, Art Unit 2627 Supervisory Patent Examiner, Art

Art Unit: 2627

Unit 2627